

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Mortgage Banker License of:

No. 07F-BD012-BNK

3 **PEMM.TEK MORTGAGE SERVICES,**
4 **L.L.C. AND MICHAEL L. MASON,**
5 **PRESIDENT**

8930 E. Raintree, Suite B-200
Scottsdale, AZ 85260

CONSENT ORDER

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DEPT. OF FINANCIAL
INSTITUTIONS

6 Petitioners.

7
8 On August 23, 2006, the Arizona Department of Financial Institutions ("Department") issued
9 a Notice of Hearing alleging that Petitioners had violated Arizona law. Wishing to resolve this
10 matter in lieu of an administrative hearing, Petitioners do not contest the following Findings of Fact
11 and Conclusions of Law, and consent to the entry of the following Order.

12 **FINDINGS OF FACT**

13 1. Petitioner Pemmt. Tek Mortgage Services, L.L.C. (hereinafter "PTMS") is an Arizona limited
14 liability company authorized to transact business in Arizona as a mortgage banker, license number
15 BK 0904052, within the meaning of A.R.S. §§ 6-941, *et seq.* The nature of PTMS' business is that
16 of making, negotiating, or offering to make or negotiate a mortgage banking loan or a mortgage loan
17 secured by Arizona real property within the meaning of A.R.S. § 6-941(5).

18 2. Petitioner Michael L. Mason ("Mr. Mason") is the President of PTMS and is authorized to
19 transact business in Arizona as mortgage banker within the meaning of A.R.S. § 6-941(5), as
20 outlined within A.R.S. § 6-943(F).

21 3. PTMS and Mr. Mason are not exempt from licensure as mortgage bankers within the
22 meaning of A.R.S. §§ 6-942 and 6-941(5).

23 4. An April 13, 2006 examination of PTMS, conducted by the Department, revealed that PTMS
24 and Mr. Mason:

- 25 a. Solicited and transacted mortgage business without using the name and license
26 number as issued on its principal place of business license, specifically:

- 1 i. Petitioner failed to include its entire license name and/or license
2 number in it at least six (6) advertisements/solicitations;
3 b. Failed to conduct the minimum elements of reasonable employee investigations
4 before hiring employees, specifically:
5 i. Failed to obtain a signed statement attesting to all of an applicant's
6 felony convictions, including detailed information regarding each
7 conviction before hiring ten (10) employees;
8 ii. Failed to collect and review all of the documents authorized by the
9 Immigration and Control Act of 1986 for one (1) employee;
10 iii. Failed to obtain a completed and dated "I9" (Employment Eligibility
11 Verification Form) for one (1) employee;
12 iv. Failed to consult with the applicant's most recent or next most recent
13 employer or failed to date said inquiry for six (6) employees;
14 v. Failed to inquire regarding an applicant's qualifications and
15 competence or failed to date said inquiry for the position for six (6)
16 employees;
17 vi. Failed to obtain a credit report for one (1) employee;
18 vii. Failed to obtain a completed and signed employment application
19 before hiring one (1) employee;
20 viii. Failed to conduct further investigation of six (6) employees with
21 derogatory credit reports; and
22 i. Petitioners failed to correct these violations from their last examination;
23 c. Contracted with or paid compensation to unlicensed, independent contractors,
24 specifically:
25 ...
26 ...

- i. Petitioners purchased \$16,519.98 in leads during the 2004 calendar year from Michael Quiroz, who is an unlicensed independent contractor; and
 - ii. From 2004 to 2005, Petitioners paid approximately \$176,633.45 to forty five (45) employees on a 1099 basis rather than a W-2 basis as required;
- d. Failed to maintain correct and complete records, specifically:
 - i. Petitioners failed to provide a sequential listing of checks written for its operating account;
- e. Failed to update and reconcile records for having more than ten (10) transactions in a calendar quarter;
- f. Allowed borrowers to sign regulated documents containing blank spaces, specifically:
 - i. Ten (10) authorizations to complete blank spaces disclosures did not specifically identify the blank spaces to be completed or were defective; and
 - ii. One (1) credit insurance disclosure was signed in blank;
- g. Made a false promise or misrepresentation or concealed an essential or material fact in the course of the mortgage banker business, specifically:
 - i. Petitioners failed to disclose to the Department on their mortgage banker license renewal application (question 17b) that they have been sued in three separate civil actions (CV2005-050350, CV2006-050840, and OCSC-05CL07743);
- h. Failed to use proper appraisal disclosures, specifically:
 - i. Used unlawful appraisal disclosures that limit a borrower to 90 days in which the borrower may request a copy of an appraisal for which the borrower has paid.

5. Based upon the above findings, the Department issued and served upon PTMS and Mr. Mason an Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of Order ("Cease and Desist Order") on July 6, 2006.

6. On August 4, 2006, Petitioners filed a Request For Hearing to appeal the Cease and Desist Order.

7. Petitioners have voluntarily agreed to take corrective action and have attempted to comply with the Department's requests. However, such finding does not waive any provisions of this Consent Order.

CONCLUSIONS OF LAW

1. Pursuant to A.R.S. §§ 6-941, *et seq.*, the Superintendent has the authority and duty to regulate all persons engaged in the mortgage banker business and with the enforcement of statutes, rules, and regulations relating to mortgage bankers.

2. By the conduct set forth in the Findings of Fact, PTMS and Mr. Mason violated the following:

- a. A.R.S. § 6-943(N) by failing to use their proper name and license number within regulated advertising;
- b. A.R.S. § 6-943(O) and A.A.C. R20-4-102 by failing to conduct the minimum elements of reasonable employee investigations before hiring employees;
- c. A.R.S. § 6-947(B) and A.A.C. R20-4-102 by contracting with or paying compensation to unlicensed, independent contractors;
- d. A.R.S. § 6-946(A) and A.A.C. R20-4-1806(B) by failing to maintain correct and complete records;
- e. A.A.C. R20-4-1806(C) by failing to update and reconcile records having more than ten (10) transactions in a calendar quarter;
- f. A.R.S. § 6-947(A) and A.A.C. R20-4-1808 by allowing borrowers to sign regulated documents containing blank spaces;

1 g. A.R.S. § 6-947(L) by making a false promise or misrepresentation or concealing an
2 essential or material fact in the course of the mortgage banker business;

3 h. A.R.S. § 6-946(C) by failing to use proper appraisal disclosures.

4 3. The violations, set forth above, constitute grounds for: (1) the issuance of an order
5 pursuant to A.R.S. § 6-137 directing Petitioners to cease and desist from the violative conduct and to
6 take the appropriate affirmative actions, within a reasonable period of time prescribed by the
7 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and
8 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the
9 suspension or revocation of Petitioners' license pursuant to A.R.S. § 6-945; and (4) an order or any
10 other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage
11 bankers pursuant to A.R.S. §§ 6-123 and 6-131.

12 **ORDER**

13 1. Pemm.Tek Mortgage Services, L.L.C. and Mr. Mason shall immediately stop the
14 violations set forth in the Findings of Fact and Conclusions of Law. Pemm.Tek Mortgage Services,
15 L.L.C. and Mr. Mason:


- 16 a. Shall use their proper name and license number within regulated advertising;
17 b. Shall conduct the minimum elements of reasonable employee investigations before
18 hiring employees;
19 c. Shall not contract with or pay compensation to unlicensed, independent contractors;
20 d. Shall maintain correct and complete records;
21 e. Shall update and reconcile records having more than ten (10) transactions in a
22 calendar quarter;
23 f. Shall not allow borrowers to sign regulated documents containing blank spaces;
24 g. Shall not make a false promise or misrepresentation or conceal an essential or
25 material fact in the course of the mortgage banker business; and
26 h. Shall use proper appraisal disclosures.

2. Pemm.Tek Mortgage Services, L.L.C. and Mr. Mason shall immediately pay to the Department a civil money penalty in the amount of five thousand dollars (\$5,000.00). Pemm.Tek Mortgage Services, L.L.C. and Mr. Mason are jointly and severally liable for payment of the civil money penalty.

3. The provisions of this Order shall be binding upon Petitioners, their employees, agents, and other persons participating in the conduct of the affairs of Petitioners.

4. This Order shall become effective upon service, and shall remain effective and enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated, or set aside.

SO ORDERED this 27th day of September, 2006.


Felecia A. Rotellini
Superintendent of Financial Institutions

CONSENT TO ENTRY OF ORDER

1. Petitioners acknowledge that they have been served with a copy of the foregoing Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the same, are aware of their right to an administrative hearing in this matter, and have waived the same.

2. Petitioners admit the jurisdiction of the Superintendent and consent to the entry of the foregoing Findings of Fact, Conclusions of Law, and Order.

3. Petitioners state that no promise of any kind or nature has been made to induce them to consent to the entry of this Order, and that they have done so voluntarily.

4. Petitioners agree to cease from engaging in the violative conduct set forth above in the Findings of Fact and Conclusions of Law.

6. Petitioners acknowledge that the acceptance of this Agreement by the Superintendent is solely to settle this matter and does not preclude this Department, any other agency or officer of

1 this state or subdivision thereof from instituting other proceedings as may be appropriate now or in
2 the future.

3 6. Michael L. Mason, on behalf of Pemm.Tek Mortgage Services, L.L.C. and himself,
4 represents that he is the President, and that, as such, has been authorized by Pemm.Tek Mortgage
5 Services, L.L.C. to consent to the entry of this Order on its behalf.

6 8. Petitioners waive all rights to seek judicial review or otherwise to challenge or contest
7 the validity of this Cease and Desist Order.

8 DATED this 25th day of September, 2006.

9
10 By: Michael L. Mason
11 Michael L. Mason, President
12 Pemm.Tek Mortgage Services, L.L.C.

13 ORIGINAL of the foregoing filed this 28th
14 day of September, 2006, in the office of:

15 Felecia A. Rotellini
16 Superintendent of Financial Institutions
17 Arizona Department of Financial Institutions
18 ATTN: June Beckwith
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

19 COPY mailed same date to:

20 Allen Reed, Administrative Law Judge
21 Office of the Administrative Hearings
1400 West Washington, Suite 101
22 Phoenix, AZ 85007

23 Craig A. Raby, Assistant Attorney General
24 Office of the Attorney General
1275 West Washington
25 Phoenix, AZ 85007

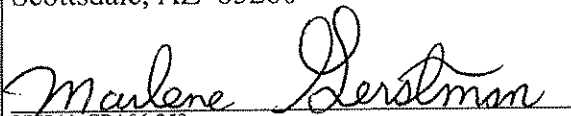
26 ...

1 Robert D. Charlton, Assistant Superintendent
Joan Doran, Senior Examiner
2 Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
3 Phoenix, AZ 85018

4 AND COPY MAILED SAME DATE by
Certified Mail, Return Receipt Requested, to:

5 Michael L. Mason, President
6 Pemm.Tek Mortgage Services, L.L.C.
8930 E. Raintree, Suite B-200
7 Scottsdale, AZ 85260

8 Joseph J. Ruble
Chief Operating Officer
9 Pemm.Tek Mortgage Services, L.L.C.
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10 Scottsdale, AZ 85260

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